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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2045 OF 2007

Office Notes, Office Memoranda of : coram, appearances, Court's Orders: or directions and Registrar Orders:	Court's or Judge's orders

Mr.Anil Subramaniam for the petitioner.

Mr.S.S. Pakale for the respondents.

CORAM : S.B. MHASE &
D.G. KARNIK, JJ.

DATE : 29TH OCTOBER 2007

P.C. :

1. By this petition, the petitioner challenges the order of termination dated 17th January 2005. The petitioner was appointed purely on a temporary basis in a post in CRPF with effect from 15th February 2003. On 16th May 2003, he complained of pain in his right hip. and was sent on sick report on 17th May 2005 to a station hospital at Gandhinagar. On 23rd May 2003, he was referred to Civil Hospital, Ahmedabad and was operated on 5th June 2003 on his right hip bone. He was declared unfit for active duty by the Commandant Medical Officer, Gandhinagar.

Consequently, the order of termination was passed.

2. Learned counsel for the petitioner submitted that in view of section 47 of the Persons with Disabilities Act, services of the petitioner could not have been terminated, but he should have been absorbed in some other equivalent post. In our view, that provision applies to a permanent employee. The petitioner was appointed only on a temporary basis and within 5 months of his service, he was found to be unfit for the post. In the circumstances, there is nothing wrong in termination of the petitioner's services as he was found unfit. There is no merit in the petition, which is hereby rejected.

(D.G. KARNIK, J.) (S.B. MHASE, J.)